

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

LUMETIQUE, INC.,

Plaintiff,

v.

RESTORATION HARDWARE, INC.

Defendant.

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No. \_\_\_\_\_

**PLAINTIFF'S ORIGINAL COMPLAINT**

**Parties, Jurisdiction, and Venue**

1. Plaintiff Lumetique, Inc. is a California corporation with its principal place of business at 18475 Bandilier Circle, Fountain Valley, California.

2. Defendant Restoration Hardware, Inc. is a California corporation with its principal place of business at 15 Koch Road, Suite J, Corte Madera, CA 94925. Restoration Hardware, Inc. sells its products throughout the United States, including in Marshall, Texas and throughout the Eastern District of Texas.

3. Restoration Hardware, Inc. may be served at its principal place of business.

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1338 because this is a patent infringement case.

5. Venue is proper because multiple acts of infringement have occurred, and are continuing to occur, in this District.

### **Facts**

6. Lumetique develops and sells home fragrance products under the DayNa Decker® brand name. Founded in 2001 by entrepreneur and designer DayNa Decker, Lumetique invented the first wood-wick candle that is suitable for mass marketing and production.

7. Before Ms. Decker developed this design, virtually all candles on the market used cotton wicks. But after thousands of experiments with different wick materials and designs, Ms. Decker discovered that wood wicks have advantages over cotton ones.

8. When properly designed, wood wicks produce an even burn rate, a distinctive “teardrop” flame, low soot emissions, and crackling sounds reminiscent of a fireplace. This innovation resulted in Lumetique’s EcoWood wick and Botanika Chandel®, which have netted Lumetique more than \$10 million in sales revenue since their introduction in 2005.

9. Lumetique obtained, and currently owns, multiple patents on its wood wick technology. These patents include D644,360, D644,359, and D643,554 (which are attached as Exhibit A-C, respectively).

10. Restoration Hardware, Inc. directly and indirectly infringes the ‘360, ‘359, and ‘554 patents because it markets infringing wood wick candle products throughout the United States, including in Marshall, Texas.

### **Cause of Action**

11. Lumetique incorporates the foregoing paragraphs as if fully set forth here.

12. Restoration Hardware, Inc. has committed, and is continuing to commit, multiple acts of infringement of the ‘360, ‘359, and ‘554 patents.

13. Restoration Hardware, Inc.’s infringement is willful.

14. Lumetique is entitled to recover damages, including lost profits, a reasonable royalty, treble damages for willful infringement, and attorney's fees.

15. Lumetique is also entitled to a preliminary and permanent injunction prohibiting further Restoration Hardware, Inc. from continuing to manufacture, use, sell, or offer for sale any infringing products.

**Prayer**

WHEREFORE, PREMISES CONSIDERED, Lumetique respectfully requests judgment against Restoration Hardware, Inc. for the following:

1. Legal and equitable relief;
2. General, special, and exemplary damages, including but not limited to reasonable royalty, lost profits, multiple damages for willful infringement, and multiple damages for exceptional case;
3. Prejudgment and post-judgment interest;
4. Cost of suit;
5. Attorneys' fees;
6. Preliminary and permanent injunctive relief;
7. All other relief, in law and equity, to which Lumetique may be entitled.

Respectfully submitted,

AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING, P.C.

*/s/ Steven J. Mitby*

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